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NO FEE – GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

BC 667012

THE PEOPLE OF THE STATE OF CALIFORNIA,

Case No.:

Plaintiff,

COMPLAINT FOR ABATEMENT AND  
INJUNCTION

vs.

JEAN V. PRESTON, an individual, as trustee of the  
JEAN V. PRESTON REVOCABLE LIVING TRUST;  
and DOES 1 through 50, inclusive,

[HEALTH & SAF. CODE  
SECTION 11570, ET SEQ.; CIVIL  
CODE SECTION 3479, ET SEQ.]

Defendants.

[Unlimited Action]

PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

**I. INTRODUCTION**

1. This action (the "Action") is brought and prosecuted by Plaintiff, the People of the State of California (the "People" or the "Plaintiff"), for the purpose of abating and enjoining a dangerous narcotics-related nuisance existing at a single family residence located at 443 West 74<sup>th</sup> Street, Los Angeles, CA, 90003 (the "Property"). The Property is owned by the Jean V. Preston Revocable Living Trust, for which Defendant Jean V. Preston, an individual (the "Defendant"), serves as trustee. The Property is a hub for blatant narcotics sales and related nuisance activity. The Property is located less than 2000 feet from several sensitive sites in

1 the community, including two public parks, three schools, and several churches.

2 2. Numerous individuals use the Property to freely engage in the sale of narcotics,  
3 including rock cocaine. On a daily basis, individuals loiter in the backyard of the Property and,  
4 in an open and obvious manner, conduct narcotics sales with customers that approach the  
5 backyard using one of the two alleys abutting the Property. Individuals at the Property also  
6 make narcotics sales in front of the Property and retreat to the backyard upon completion of  
7 the sale.

8 3. The Property has been a hub for narcotics sales for a number of years. In May  
9 2017, Los Angeles Police Department ("LAPD") officers conducted two controlled purchases of  
10 rock cocaine at and connected to the Property. In September 2015, LAPD officers conducted  
11 a similar controlled purchase of rock cocaine in the backyard of the Property. During the  
12 execution of a search warrant subsequent to that 2015 purchase, LAPD officers recovered  
13 bags of powder cocaine, rock cocaine, methamphetamine, and PCP hidden in a number of  
14 pigeon coops and other locations in the backyard of the Property.

15 4. An individual named Michael Preston, whom Plaintiff is informed and believes,  
16 and on such information and belief alleges, is closely related to Defendant Jean V. Preston,  
17 was arrested during the execution of the September 2015 search warrant for his role in the  
18 controlled purchase of rock cocaine at the Property. After that arrest, Mr. Preston admitted to  
19 LAPD that he "allows people to use narcotics in his backyard" and admitted to "furnishing  
20 narcotics in the past" at the Property.

21 5. The Property's reputation as a place where narcotics are readily sold attracts  
22 individuals who come to the block for the sole purpose of purchasing narcotics. This activity  
23 comes at the expense of the law-abiding residents of the surrounding community, who are  
24 forced to contend with such nuisance behavior every day.

25 6. This Action is intended to rectify the unacceptable state of affairs at the Property,  
26 to halt the sale, distribution, and purchase of narcotics at the Property, and to ensure that the  
27 residents of the surrounding community and the residents at the Property, including the  
28 Defendant, have a safe and nuisance-free place to live.

## II. THE PARTIES AND THE PROPERTY

### A. Plaintiff

7. Plaintiff, the People, is the sovereign power of the State of California, and is authorized to bring the first cause of action pursuant to the Narcotics Abatement Law ("NAL"), Health and Safety Code section 11571, *et seq.*, and the second cause of action pursuant to California Code of Civil Procedure section 731, which authorizes abatement, injunction, and penalty of and for public nuisances pursuant to the Public Nuisance Law ("PNL"), California Code sections 3479-3480.

### B. Defendants

8. Defendant Jean V. Preston, an individual, is the trustee for the Jean V. Preston Revocable Living Trust, which has owned the Property since 1998. Prior to 1998, the Defendant owned the Property as an individual, which she purchased in 1970. Plaintiff is informed and believes, and on such information and belief alleges, that the Defendant currently resides at the Property. Plaintiff does not know who else occupies the Property.

9. Plaintiff names Defendant Jean V. Preston in this Action reluctantly, as she is 81 years of age and Plaintiff has no information to suggest that she has directly contributed to the nuisance activity described herein. Plaintiff does not know the extent to which the Defendant has control over the Property and the behavior of its other occupants. Nonetheless, Plaintiff has no other means for abating the dangerous nuisance conditions at the Property than naming the Defendant in this Action as trustee for the Jean V. Preston Revocable Living Trust. The Defendant is either unable or unwilling to abate the nuisance activity occurring at the Property and under the laws of the state of California described herein she is liable for the nuisance activity. Plaintiff's counsel has contacted Los Angeles County Adult Protective Services to alert them to the criminal nuisance activity occurring at the Property and the possibility that the Defendant may be taken advantage of or otherwise harmed by others at the Property.

10. The true names and capacities of defendants sued herein as DOES 1 through 50, inclusive, are unknown to the Plaintiff, who therefore sues said defendants by such

1 fictitious names. When the true names and capacities of said defendants have been  
2 ascertained, the Plaintiff will ask leave of the Court to amend this complaint and to insert in lieu  
3 of such fictitious names the true names and capacities of said fictitiously named defendants.

4 **C. The Property**

5 11. The Property is a single family residence located in the City and County of Los  
6 Angeles legally described as: "Lot 10 of Ida Tract, as per map recorded in Book 30, page 37 of  
7 Maps, as recorded in the office of the County Recorder of Los Angeles County, State of  
8 California, except the easterly 1 foot thereof. ALSO EXCEPT ALL MINERAL RIGHTS." The  
9 Los Angeles County Assessor's Parcel Number for the Property is 6020-030-010. A  
10 photograph of the Property is attached hereto as Exhibit 1.

11 **III. THE NARCOTICS ABATEMENT LAW**

12 12. Since its enactment in 1972, the principal purpose of the NAL (Health & Saf.  
13 Code, § 11570, *et seq.*) is the abatement of buildings and places "used for the purpose of  
14 unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled  
15 substance, precursor, or analog specified in this division . . . ." (Health & Saf. Code, § 11570).

16 13. The NAL provides that every building or place used for the purpose of unlawfully  
17 selling, serving, storing, keeping, manufacturing, or giving away any controlled substance,  
18 precursor, or analog *inter alia*, "is a nuisance which **shall** be enjoined, abated, and  
19 prevented . . . whether it is a public or private nuisance." (Health & Saf. Code, § 11570  
20 [emphasis added]; *People ex rel Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389; *Lew v.*  
21 *Superior Court* (1993) 20 Cal.App.4th 866, 870-871.)

22 14. Health and Safety Code section 11571 authorizes a city attorney to bring an  
23 action to abate, prevent and perpetually enjoin such nuisances. It provides in relevant part:  
24 "Whenever there is reason to believe that a nuisance as described in Section 11570 is kept,  
25 maintained, or exists in any county, the district attorney of the county, or the city attorney of  
26 any incorporated city or of any city and county, in the name of the people, may . . . maintain an  
27 action to abate and prevent the nuisance and perpetually to enjoin the person conducting or

28 ///

1 maintaining it, and the owner, lessee, or agent of the building or place in or upon which the  
2 nuisance exists from directly or indirectly maintaining or permitting the nuisance."

3 15. Health and Safety Code section 11573(a) provides that: "If the existence of the  
4 nuisance is shown in the action to the satisfaction of the court or judge, either by verified  
5 complaint or affidavit, the court or judge **shall** allow a temporary restraining order or injunction  
6 to abate and prevent the continuance or recurrence of the nuisance." (Emphasis added.) In  
7 addition, Health and Safety Code section 11581 provides, as an additional remedy, for the  
8 removal and sale of all fixtures and movable property on the premises used in aiding or  
9 abetting the nuisance and for the closure of the building for up to one year.

#### 10 **IV. THE PUBLIC NUISANCE LAW**

11 16. The PNL, Civil Code section 3479, defines a public nuisance as "[a]nything which  
12 is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is  
13 indecent or offensive to the senses, or an obstruction to the free use of property, so as to  
14 interfere with the comfortable enjoyment of life or property...." (See *City of Bakersfield v. Miller*  
15 (1966) 64 Cal.2d 93, 99 ["The Legislature has defined in general terms the word 'nuisance' in  
16 Civil Code section 3479. . .".])

17 17. Civil Code section 3480 defines a public nuisance as "one which affects at the  
18 same time an entire community or neighborhood, or any considerable number of persons,  
19 although the extent of the annoyance or damage inflicted upon individuals may be unequal."  
20 Civil Code section 3491 provides the methods by which public nuisances such as those  
21 alleged herein may be abated.

22 18. In particular, drug dealing, loitering, consumption of alcohol and illegal drugs, and  
23 boisterous conduct which creates a "hooligan-like atmosphere" constitutes a public nuisance.  
24 (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1120.)

25 19. Civil Code section 3491 states that the "remedies against a public nuisance are  
26 indictment or information, a civil action or abatement." Abatement is "accomplished by a court  
27 of equity by means of an injunction proper and suitable to the facts of each case." (*Sullivan v.*  
28 *Royer* (1887) 72 Cal. 248, 249.)

1           20. Code of Civil Procedure section 731 authorizes a city attorney to bring an  
2 action to enjoin or abate a public nuisance. It provides, in relevant part, "[a] civil action may be  
3 brought in the name of the people of the State of California to abate a public nuisance . . . by  
4 the city attorney of any town or city in which such nuisance exists."

5           21. "[S]trict liability for nuisance historically attends the possession and control of  
6 land." (*Leslie Salt Co. v. San Francisco Bay Conservation and Development Commission*  
7 (1984) 153 Cal.App.3d 605, 618 n. 15 & 619). "It is immaterial whether the acts" of the  
8 persons sought to be held liable for a nuisance "be considered willful or negligent; the essential  
9 fact is that, whatever be the cause, the result is a nuisance." (*Snow v. Marian Realty Company*  
10 (1931) 212 Cal. 622, 625-26; *see also Sturges v. Charles L. Harney, Inc.* (1958) 165  
11 Cal.App.2d 306, 318 ["a nuisance and liability therefore may exist without negligence"]; *People*  
12 *v. McCadden* (1920) 48 Cal.App. 790, 792 ["A judgment supported on findings that such  
13 nuisance was conducted and maintained on the premises in question, regardless of the  
14 knowledge of the owner thereof, is sufficient. Such knowledge on the part of the owner . . . is  
15 unnecessary."].) This strict standard is because "the object of the act is not to punish; its  
16 purpose is to effect a reformation of the property itself." (*People v. Bayside Land Co.* (1920) 48  
17 Cal.App. 257, 261.)

18                   **V. FIRST CAUSE OF ACTION FOR NARCOTICS ABATEMENT**

19                   **[Health and Safety Code section 11570, *et seq.* --**

20                   **Against Defendant and DOES 1 through 50]**

21           22. Plaintiff hereby incorporates by reference paragraphs 1 through 21 of this  
22 Complaint and makes them part of the First Cause of Action, as if fully set forth herein.

23           23. The Property has been used, from an exact date unknown, but at least since  
24 2015, and is *currently* being used, for the purposes of unlawfully selling, serving, storing,  
25 keeping, manufacturing, or giving away controlled substances in violation of Health and Safety  
26 Code section 11570, *et seq.* Further, the Property's community reputation is as a place where  
27 narcotics are openly and regularly sold.

28           24. The Defendant, and DOES 1 through 50, are responsible for conducting,

1 maintaining, and/or directly or indirectly permitting the nuisance as alleged herein. Plaintiff has  
2 no plain, speedy, and adequate remedy at law and unless the Defendant, and DOES 1 through  
3 50, are restrained and enjoined by order of this Court, they will continue to use, occupy, and  
4 maintain, and/or aid, abet, or permit, directly or indirectly, the use, occupation, and  
5 maintenance of the Property, together with the fixtures and appurtenances located therein, for  
6 the nuisance complained of herein, to the great and irreparable damage of the public and in  
7 violation of California law.

8 25. Plaintiff has no plain, speedy, or adequate remedy at law, and injunctive relief is  
9 expressly authorized in sections 11570-11578 of the California Health and Safety Code.

10 **VI. SECOND CAUSE OF ACTION FOR PUBLIC NUISANCE**

11 **[Civil Code section 3479, *et seq.* --**

12 **Against Defendant and DOES 1 through 50]**

13 26. Plaintiff incorporates by reference Paragraphs 1 through 25 of this Complaint and  
14 makes them part of this Second Cause of Action as though fully set forth herein.

15 27. From an exact date unknown, but at least since 2015, through the present time,  
16 the Defendant, and DOES 1 through 50, have alternately owned, operated, managed, and  
17 used, and/or directly or indirectly permitted to be occupied and used, the Property in such a  
18 manner as to constitute a public nuisance in accordance with Civil Code sections 3479 and  
19 3480. The public nuisance activity, including, but not limited to, the open and obvious sale of  
20 narcotics and related criminal and violent behavior, is injurious to health, indecent or offensive  
21 to the senses, and/or an obstruction to the free use of property, so as to substantially and  
22 unreasonably interfere with the comfortable enjoyment of life or property by those persons  
23 living in the surrounding community.

24 28. The Defendant, and DOES 1 through 50, in owning, conducting, maintaining,  
25 and/or permitting the use of the Property, directly or indirectly, as a public nuisance, have  
26 caused a serious threat to the general health, safety, and welfare of the law-abiding tenants at  
27 the Property and persons in the area surrounding the Property.

28 29. Unless the Defendant, and DOES 1 through 50, are restrained and enjoined by

1 order of this Court, they will continue to use, occupy, and maintain, and to aid, abet, or permit,  
2 directly or indirectly, the use, occupation, and maintenance of the Property, together with the  
3 fixtures and appurtenances located therein, for the purpose complained of herein, to the great  
4 and irreparable damage of Plaintiff and in violation of California law.

5 **VII. PRAYER**

6 **WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND**  
7 **DECREE AS FOLLOWS:**

8 **AS TO THE FIRST CAUSE OF ACTION**

9 **AS TO DEFENDANT and DOES 1 through 50:**

10 1. That each Defendant, and the Property, including all building and structures  
11 thereon, be declared in violation of Health and Safety Code section 11570, *et seq.*

12 2. That the Property, together with the fixtures and moveable property therein and  
13 thereon, be found to constitute a public nuisance and be permanently abated as such in  
14 accordance with section 11581 of the Health and Safety Code.

15 3. That the Court grant a preliminary injunction, permanent injunction and order of  
16 abatement in accordance with section 11570, *et seq.*, of the Health and Safety Code, enjoining  
17 and restraining each Defendant, and any agents, officers, employees, and anyone acting on  
18 their behalf, from unlawfully selling, serving, storing, keeping, manufacturing, or giving away  
19 controlled substances on the Property, and/or directly or indirectly maintaining or permitting  
20 such nuisance activity.

21 4. That the Court issue such orders in accordance with Health and Safety Code  
22 section 11573.5 to remedy the nuisance on the Property and enhance the abatement process,  
23 including, but not limited to, remedial improvements to the property and termination of the  
24 tenancies of those residents involved in the nuisance activity.

25 5. That as part of the Judgment, an Order of Abatement be issued, and that the  
26 Property be closed for a period of one year, not to be used for any purpose, and be under the  
27 control and custody of this Court for said period of time; or, in the alternative, if the Court  
28 deems such closure to be unduly harmful to the community, that Defendants pay an amount of



1 damages equal to the fair market rental value of the Property for one year to the City of Los  
2 Angeles in accordance with Health and Safety Code section 11581 subdivision (c)(1).

3 6. That each Defendant be assessed a civil penalty in an amount not to exceed  
4 twenty-five thousand dollars (\$25,000.00) each.

5 7. That all fixtures and moveable property used in conducting, maintaining, aiding,  
6 or abetting the nuisance at the Property be removed by the LAPD and sold in the manner  
7 provided for the sale of chattels under execution. Said fixtures and property shall be  
8 inventoried and a list prepared and filed with this court.

9 8. That there shall be excepted from said sale such property to which title is  
10 established in some third party not a defendant, nor agent, officer, employee, or servant of any  
11 defendant in this proceeding.

12 9. That the proceeds from said sale be deposited with this court for payment of the  
13 fees and costs of sale. Such costs may occur in removal of said property and in closing said  
14 Property and keeping it closed.

15 10. That if the proceeds of the sale do not fully discharge all such costs, fees and  
16 allowances, the Property shall also be sold under execution issued upon the order of the court  
17 or judge and the proceeds of such sale shall be applied in a like manner.

18 11. That any excess monies remaining after payment of approved costs shall be  
19 delivered to the owner of said Property. Ownership shall be established to the satisfaction of  
20 this court.

21 12. That each Defendant, and any agents, trustees, officers, employees and anyone  
22 acting on their behalf, and their heirs and assignees, be perpetually enjoined from transferring,  
23 conveying, or encumbering any portion of the Property, for consideration or otherwise, without  
24 first obtaining the Court's prior approval.

25 13. That each Defendant be ordered to immediately notify any transferees,  
26 purchasers, commercial lessees, or other successors in interest to the subject Property of the  
27 existence and application of any temporary restraining order, preliminary injunction, or  
28 permanent injunction to all prospective transferees, purchasers, commercial lessees, or other

1 successors in interest, *before* entering into any agreement to sell, lease or transfer the  
2 Property, for consideration or otherwise, all or any portion of the Property that is the subject of  
3 this action.

4 14. That each Defendant be ordered to immediately give a complete, legible copy of  
5 any temporary restraining order and preliminary and permanent injunctions to all prospective  
6 transferees, purchasers, lessees, or other successors in interest to the Property.

7 15. That each Defendant be ordered to immediately request and procure signatures  
8 from all prospective transferees, purchasers, lessees, or other successors in interest to the  
9 subject Property, which acknowledges his/her respective receipt of a complete, legible copy of  
10 any temporary restraining order, preliminary and permanent injunction, and deliver a copy of  
11 such acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City Attorney  
12 Adam Bierman or his designee.

13 16. That Plaintiff recover the costs of this action, including law enforcement  
14 investigative costs and any fees, including attorneys' fees, authorized by law, not to exceed  
15 \$1,000,000.00, from Defendants.

16 AS TO THE SECOND CAUSE OF ACTION

17 AS TO DEFENDANT and DOES 1 through 50:

18 1. That the Property, together with the fixtures and moveable property therein and  
19 thereon, be declared a public nuisance and be permanently abated as such in accordance with  
20 Civil Code section 3491.

21 2. That each Defendant, and any agents, officers, employees, and anyone acting  
22 on their behalf, and their heirs and assignees, be preliminarily and perpetually enjoined from  
23 operating, conducting, using, occupying, or in any way permitting the use of the Property as a  
24 public nuisance. Such orders should include, but not be limited to physical and managerial  
25 improvements to the Property and such other orders as are appropriate to remedy the  
26 nuisance on the Property and enhance the abatement process.

27 3. That Plaintiff be awarded such costs as may occur in abating said nuisance at the  
28 Property and such other costs as the Court shall deem just and proper.

1 4. That Plaintiff be granted such other and further relief as the Court deems just and  
2 proper, including closure and/or demolition of the Property.

3 AS TO ALL CAUSES OF ACTION

4 1. That Plaintiff recover the amount of the filing fees and the amount of the fee for  
5 the service of process or notices that would have been paid but for Government Code section  
6 6103.5, designating it as such. The fees may, at the Court's discretion, include the amount of  
7 the fees for certifying and preparing transcripts.

8 2. That Plaintiff be granted such other and further relief as the Court deems just and  
9 proper.

10  
11 DATED: June 30, 2017

Respectfully submitted,

12 MICHAEL N. FEUER, City Attorney

13 JONATHAN CRISTALL, Supervising Assistant City Attorney

14  
15  
16 By: 

17 ADAM BIERMAN, Deputy City Attorney  
18 Attorneys for Plaintiff, THE PEOPLE OF THE STATE  
19 OF CALIFORNIA  
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**EXHIBIT 1**

Exhibit 1 - 443 W. 74th St.

